

MINUTES

Erie County Council

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Dr. Kyle Foust, Chairman
Fiore Leone, Vice Chairman
Carl Anderson, III
Kathleen Fatica
André R. Horton
Carol Loll
Scott R. Rastetter

REGULAR MEETING MINUTES

PLEDGE OF ALLEGIANCE

Chairman Foust called to order a Regular Meeting of the Erie County Council at 7:00 p.m. at the North East Township Building, 10300 West Main Road, North East, PA. Following the Pledge of Allegiance, Mrs. Loll read the following prayer:

OPTIONAL PRAYER OR INVOCATION

Prior to her prayer, Mrs. Loll asked for a moment of silence for the passing of Mr. Anderson's brother in law.

"Let us pray. We come to you, O God, to thank you for what is good, to cry out for what is wrong, and to ask for help and guidance to do our part. We open our hearts with desire to be attentive to our duties. And not be distracted by the world around us. We desire to be humble and not listen to our pride. May our priorities become clear, may our vision be focused and may we hear the problems of others. We pray this in Jesus name. Amen."

Dr. Foust welcomed everyone to North East Township and recognized August Neff, North East Township Supervisor, who was in attendance.

ROLL CALL

Members Present: Mr. Anderson; Mrs. Fatica; Mr. Horton; Mr. Leone; Mrs. Loll; Mr. Rastetter; Chairman Foust.

Also Present: Douglas R. Smith, James Sparber, Tracey Fugagli

HEARING OF THE PUBLIC

Andrew Fine, North East Township; Mr. Fine stated that it's been over a year since Council backed the community college. There has not been a lot of discussion on it. He saw in December, the State had submitted questions that were answered by the County Executive. They brought in the financial piece of the community college and how it will be funded. When the idea was pitched, tuition would be 2,400 rising to 2,800. The plan submitted is now over 3,000 and climbing. Funding was projected to be 5.5 million plus, coming out of gaming funds. It hasn't hit that in the years projected. He hopes that Council is paying attention to this issue because it seems that the numbers are not hitting the way they are supposed to. It doesn't seem that the finances are falling into place as projected. Once the stadium loan is paid off the County will have 1 million, but once the gaming funds are committed to the community college

operations, that revenue stream will always be committed there because the community college, by plan, will never be self-sustaining. He encouraged Council to take a good hard look at and talk about it and get some answers. He does not feel it is too late to pull the plug on it and if it went through originally as planned, the County would be looking at least at a couple hundred thousand dollars coming from some County program.

MINUTES FROM PREVIOUS MEETING

Appr. of July 24, 2018 - Regular Meeting Minutes

This was moved by Mr. Leone, seconded by Mr. Horton and carried in a 7 - 0 vote.

Dr. Foust then recognized Mr. Bob Mazza, another North East Township supervisor, who walked in to the meeting and thanked him for his hospitality.

REPORTS OF COUNTY OFFICIALS

County Executive and/or her Designee

No report.

Finance Committee - Mrs. Fatica

Mrs. Fatica stated that the Finance Committee met on Wednesday, August 15, 2018, and agreed to place Ordinances 84 and 95 under Old Business, Ordinances 104 through 111, Resolution 46, 2018, two board appointments and 2 sales of parcels from the repository under New Business.

Personnel Committee - Mr. Horton

Mr. Horton stated that the Personnel Committee met immediately following the Finance Committee and agreed to place Ordinances 112 through 114 on the agenda under New Business.

Other

Mr. Leone talked about the Three Year Plan. Council sends response to the County Executive by September. He thanked Mr. Horton and Mrs. Loll for their input. Mr. Leone commented that year after year we continue to put in quite a few of the same issues in the plan. He felt's it's ok to oppose unfunded mandates from the Commonwealth of Pennsylvania and federal government, that is quite obvious. There are nine other issues listed. One issue he is very concerned about is to making a decision regarding the former Pleasant Ridge Manor East property to either repurpose or demolish it. No member of Council is in favor of selling that property. In his opinion, one has to understand that the three year plan is to determine what would be needed in the next three years. Council is trying to inform the County Executive that they are interested in doing something with PRM East. That is one of the big issues and the other items are

somewhat generic. It is based solely on current information available from the Administration and it is therefore subject to change as warranted. He believes that Council should follow up with the Pleasant Ridge Manor East building.

Dr. Foust agrees and stated that Council received a report in the past that it is cheaper to repurpose the building rather than sell it. He hopes that some sort of solution could be found.

Mr. Horton sadly stated that it has been 291 since the USA Today 24 Wall Street article came out citing Erie, PA as the worst place in America for African-Americans to live. He is embarrassed when he looks at the agenda and there is nothing to speak of the situation for poor people regardless of race. There are a lot of things going on in the district he represents and they are really blessed with the development taking place but the poor people were sold a bill of goods. Throughout the 2nd legislative district, where he represents, part of that being 16501 zip code, which is designated as the poorest zip code in the Commonwealth, and the silence from all legislative bodies is deafening. He appreciates the investments the Governor has made in the 2nd legislative district, with \$16 million brought last week, \$12 million going to district and the Erie Insurance Arena and went to Erie Events, who has a billion dollars' worth of assets. He is not seeing anything for poor people. There is no supermarket on the east bluff or the west bluff below 26th Street. People are buying vegetables at the Shell gas station on 6th and Parade. He feels the silence is deafening. Grants and RCAP funds are awarded to developers to develop along the Bayfront. The answer from the city is a 10 year city-wide LERTA from the city of Erie. He submitted for argument that there is nothing blighted north of the Bayfront. No one should get a ten year tax break when there are 40 kids per classroom in the school district of the city of Erie and the test scores and graduation rates are abysmal. He then compared the beautiful North East football fields to the Biletnikoff field on Peach and Craig streets in Erie where there are cinders on the track, probably the same ones that Biletnikoff ran on years ago. He feels that there is unmitigated gall to suggest there should be no taxes north of the Bayfront highway. He feels that there should be no LERTA north of the Bayfront. This is akin to not taxing Marcellus Shale. He felt that the second most prized asset has already been parceled off and that the number one asset is our children, although they are not treated like that. He stated that there is a book that declares, "Show me where you spend your money and I'll show you where your heart is". It's certainly not being spent on the children. Some members of this Council agree with a ten year tax abatements north of the Bayfront and there is a \$1.5 million deficit in the city of Erie, yet the mayor wants to give a LERTA. There is a lot of money spent on the opioid crisis and gun deaths and there is no return on the investment in programs like Weed and Seed and Unified Erie but they look to find programs to incarcerate and impede and that is not what he came to county government to do. If there is something in this agenda that addresses poor people's situation he is all ears. He

commented that the “rising tide isn’t lifting all boats”. It is affecting poor people and poor zip codes. He serves the most diverse sector in legislation. Right now there is a run on cheap property in the urban core. There is an Erie Downtown Partnership that he is grateful for and Council knows it can fix the problem, but there isn’t a will. There should be no LERTA north of the Bayfront highway. There should not be a \$600 million site lined up for a 10 year LERTA. He feels that anyone receiving RCAP or government grants in the millions should not be looking for the ten year tax abatement. They should be asking where to pay their taxes. He is concerned at the way that this body has been operating over this past year. It is a different environment than when he got here and he's not suggesting that it's right or wrong, but he is concerned. If Council continues to operate in the manner that it seems to have settled on, he does not do "cliques" or "packs", make sure not to violate the Sunshine Law because people are watching. Things have been turned upside down and he feels that things should be done in the spirit of transparency and it should be done openly and allow the public in on that discourse from LERTA to what will be done for poor people. If nothing is going to be done for poor people they should be told that, too. He stated that when he first came in to office, it wasn't always about economic development, it was about children, seniors, mentally disabled, those who are the least among us and he feels that Council is getting away from that and it’s sad. He stated that being in the first year of a second four year term, all his efforts will be regenerated to what will be done for poor people. He will not support things going forward unless and until the number one asset is served and made a priority and to do anything with the LERTA while the school district is in disarray. He appreciated the patience of Council Chair, his colleagues, and the audience for listening to report.

Mr. Rastetter commented on Mr. Horton’s speech stating that they have heard it enough times..

OLD BUSINESS

Ord. 84, 2018 – Amend. Admin Code – Dept. of Planning

Mr. Smith gave a Second Reading of Ordinance Number 84, 2018, "Amending the Administrative Code of Erie County - Department of Planning Article II C 9". This was moved by Mrs. Loll, seconded by Mr. Leone and carried in a 7 - 0 vote.

**Ord. 95, 2018 – Amend. EC
Planning Commission
Bylaws** Mr. Smith gave a Second Reading of Second Reading of Ordinance Number 95, 2018, "Amending Bylaws and the Administrative Code for the Erie County Planning Commission; Repealing Inconsistent Language". This was moved by Mr. Leone and seconded by Mr. Horton.

Mr. Horton commented that this sets to right the wrong that was done erroneously by this body and the Erie County Planning Commission. This puts

the responsibility back to Council to be able to appoint from their home district as opposed to a list of names submitted by another body. This realigns to the Home Rule Charter.

Mrs. Fatica stated that in 2016 the Erie County Planning Commission bylaws were changed to create a membership that was compliant with the PA Municipal Planning Code. The bylaws were adopted by the Planning Commission as well as County Council. To ensure municipalities are recognized, each municipality would have an opportunity to nominate an individual to the Erie County Planning Commission. A goal, as stated under the membership of the Erie County Planning Commission reads, "In order to ensure that the interests of Erie County and its municipalities are represented, the governing body shall ensure the diversity of experience, expertise, interest in composition of the Planning Commission. Members of various professions related to civil engineering, municipal governance, local land use regulations, or citizen planning should be sought out for membership and sitting members of the Planning Commission should endeavor to increase their own level of planning education through their time on the board". Mrs. Fatica believes that the only way to achieve that goal is to vote no on this ordinance.

Mrs. Loll read the following report:

"I have been attending the Erie County Metropolitan Planning meetings for over 26 years. I was appointed the liaison from Fairview Borough Council. At that time, Dave Scully was the director and there was an executive board of 9 voting members and liaisons from all the other municipalities. At that time, the Planning Executive Board chose the members that they felt would do a good job from all over the county to balance the board and represent the entire county. The next director was Janet Anderson and then Jake Welsh. During that time the voting members grew to at least 40. When Kathy Wyrosdick took over as director, she discovered that there were too many voting members and proceeded to check all the past Planning Department minutes and consulted with the State Planning bylaws. It took more than a year to organize what they have today. This new set of bylaws has given Council a voice in who is on the board. Something they didn't have until Ordinance 62 was passed. I will not be voting for this ordinance due to the fact that on December 13, 2016, we passed Ordinance 62 and we all agreed. Our attorney receives all the agendas and accompanying information and was able to inform us at that time that in his opinion that we should not vote for it as presented, but this was not done, so there must not have been a violation at that time."

Mr. Leone stated he has never pulled any punches about how he feels about having someone make an appointment in my district other than him. He fought for this for many years and he understands the comments made by everyone and will abide by the majority. He stated that Mrs. Loll commented that these

individuals represent the entire County and he wanted to remind her and his colleagues that the seven members of the Council represent the entire county and that is the reason he feels that if someone tells him to choose from a list, he wants to make his own choice and his own decision because he is elected to the office and no one is going to tell him who he can pick or can't pick from his district. He wants to be able to make his own decision because he is elected to this office and Council represents the entire county.

Mr. Horton read the opinion from the solicitor: "As requested, I reviewed the Erie County Planning Commission Resolution No. 62, adopted by Council on December 13, 2016, the Bylaws of the Planning Commission and the Pennsylvania Municipalities Planning Code, Act of 1968, July 31, P.L. 805, No. 247, art. I, Section 101, reenacted 1988, Dec. 21, P.L. 1329, No. 170, Section 2, et seq.; as amended (53 P.S. § 10101), hereinafter, the 'Planning Code'.

Under the Planning Code, the 'governing body' of any municipality, such as Erie County, shall have the power to create or abolish, by ordinance, a planning commission or department. (53 P.S. § 10201). Further, Section 203 of the Planning Code (53 P.S. § 10203) provides:

(a) All members of the commission shall be appointed by the appointing authority of the municipality. All such appointments shall be approved by the governing body, except where the governing body is the appointing authority. The 'governing body' and 'appointing authority' as defined under the Planning Code are the township supervisors in counties of the second through eighth classes or as 'designated in the law providing for the form of government', in this case, the Erie County Home Rule Charter. (53 P.S. § 10107).

Thus, the appointment of members to the Planning Commission as contemplated under the Municipalities Planning Code is no different than the appointment process under other Authorities and Boards which Council has established. All appointments to the Commission made by the County Executive must be with the 'advice and consent' of County Council or, to put it another way, the appointments of the County Executive must be 'approved' by County Council.

The Planning Code does not require the makeup of the Planning Commission to consist of heads of municipalities, although Council could agree to limit their appointments to heads of municipalities within their respective districts. I have no idea whether Council agreed to choose their appointments from a list of municipalities within their respective district; however, they are certainly not bound to do so.

Although not required by the Planning Code, the County Executive can appoint, again with Council's consent, at large members such as the representative from the Erie County Association of Township Officials and the Erie County Erie

County Association of Boroughs and ECATO.

The Bylaws of the Planning Commission reiterate the appointment process found under Resolution No. 62. Again, County Council may leave the appointment process as is, or rewrite the appointment process to conform to the Home Rule Charter”.

Mr. Horton stated that the third paragraph from the bottom states that he is not bound to do so. It is a dangerous precedent to mess with the Home Rule Charter, and allow a commission's bylaws to usurp the Home Rule Charter.

Mrs. Loll stated that each municipality has the right to have its own planning commission. The Erie County Planning Department formed a Commission and using members from the various municipality planning commissions.

Dr. Foust commented that what was approved in 2016 was in error and he thinks it needs to be corrected. Whatever was decided then, Attorney Talarico made it crystal clear that the appointment process that was approved by the Planning Commission does not comport with the Municipal Code and it should be put back into alignment. Dr. Foust stated that he agrees with Mr. Leone and Mr. Horton and their sentiment that if a council member has an appointment from their district, and certainly local municipalities can and should recommend people to a point, but in the end it is the Council person's prerogative to appoint someone to the Erie County Planning Commission. He felt that the first thing he would do, and that other council members should do, is contact their local township officials to see who would be a good fit and if it's from North East and Harborcreek gets upset, then the next opportunity could be for Harborcreek, but just because they live in a different municipality does not mean they would ignore the concerns that other municipalities have. Ultimately issues bubble up from the top and they take input from the citizenry as to what should be done. If one tries to please everyone and try to do the right thing, they end up having 40 members which pleased no one. He felt that there is a need to have confidence in district-wide representation that can translate to the boards and authorities that citizens are appointed to by Council and the appointment process that is called for in the Home Rule Charter and Administrative Code, with the seven districts represented and two at large appointees that the County Executive would have full appointment power over. He didn't know where the vote would go on this ordinance and asked if there was an appetite to table this to have a fuller discussion with Attorney Talarico regarding his latest opinions and try to mollify all the different concerns expressed this evening. Mr. Horton stated he had no objection to going back to Attorney Talarico; however, no one made a motion to do this. Dr. Foust then asked for the vote, explaining that a “Yes” vote would approve the changes.

Ordinance 95, 2018, then failed in a 3-4 vote, with Mr. Anderson, Mrs. Fatica, Mrs. Loll and Mr. Rastetter voting no.

NEW BUSINESS

Mr. Leone moved to amend the agenda by making Ordinances 106 through 112 and 114 second readings, along with the addition of the appointment of Timothy Connelly to the MH/ID Board. This was seconded by Mr. Anderson and carried in a 7-0 vote

Ord. 104, 2018 – Amend. HRC Ordinance - Powers & Duties

Mr. Smith gave a First Reading of Ordinance Number 104, 2018, "Amending the Erie County Human Relations Commission Ordinance 'Article V, Section A: Powers and Duties'".

Ord. 105, 2018 – Amend. HRC Admin. Code – Personnel

Mr. Smith gave a First Reading of Ordinance Number 105, 2018, "Amending the Administrative Code of Erie County - 'Human Relations Commission - c(iv): Personnel'".

Ord. 106, 2018 – LF SA Donation from FOL in Memory of Margaret Stewart

Mr. Smith gave a Second Reading of Ordinance Number 106, 2018, "Eighth 2018 Library Fund Budget Supplemental Appropriation of \$1,350 for Donation from Friends of the Library in Memoriam of Margaret Stewart". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.

Ord. 107, 2018 – LF SA Donation from FOL for Dank Family Memorial

Mr. Smith gave a Second Reading of Ordinance Number 107, 2018, "Ninth 2018 Library Fund Budget Supplemental Appropriation of \$750 for Donation from the Friends of the Library for the Dank Family Memorial". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.

Ord. 108, 2018 – LF SA Donation from FOL for Nat'l Summer Learning Day

Mr. Smith gave a Second Reading of Ordinance Number 108, 2018, "Tenth 2018 Library Fund Budget Supplemental Appropriation of \$750 Donation from the Friends of the Library for National Summer Learning Day". This was moved by Mrs. Fatica, seconded by Mrs. Loll and carried in a 7 - 0 vote.

Ord. 109, 2018 – LF SA for Book Endowment

Mr. Smith gave a Second Reading of Ordinance Number 109, 2018, "Eleventh 2018 Library Fund Budget Supplemental Appropriation of \$145 for Book Endowment from the Erie Regional Library Foundation". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.

Ord. 110, 2018 – LF Rev. Revenue for Line Adjustment

Mr. Smith gave a Second Reading of Ordinance Number 110, 2018, "2018 Library Fund Budget Revised Revenue of \$24,250 for Revenue Line Adjustment". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.

- Ord. 111, 2018 – LF SA for Donation from Library Foundation** Mr. Smith gave a Second Reading of Ordinance Number 111, 2018, "Twelfth 2018 Library Fund Budget Supplemental Appropriation of \$12,209 Donation from Erie Regional Library Foundation". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.
- Ord. 112, 2018 – LF Rev. Exp. & Elim. Of 3 Position; Creation of 2 Branch Mgr. Positions** Mr. Smith gave a Second Reading of Ordinance Number 112, 2018, "2018 Library Fund Budget Revised Expenditures of \$15,217 and Elimination of Three Positions; Creation of Two Branch Manager Positions". This was moved by Mr. Horton, seconded by Mr. Leone and carried in a 7 - 0 vote.
- Ord. 113, 2018 – PS SA for Addition of 6 Telecomm. Positions** Mr. Smith gave a First Reading of Ordinance Number 113, 2018, "Third 2018 Public Safety Fund Budget Supplemental Appropriation of \$50,460 for Addition of Six Telecommunicator Positions from Consolidation with East County Communications Center".
- Ord. 114, 2018 – D&A Rev. Exp. & Amend. Of Ord. 102, 2018** Mr. Smith gave a Second Reading of Ordinance Number 114, 2018, "2018 Drug & Alcohol Services Fund Budget Revised Expenditures and Amendment of Ordinance Number 102, 2018, To Place Positions in Correct Department". This was moved by Mrs. Fatica, seconded by Mr. Leone and carried in a 7 - 0 vote.
- Ord. 115, 2018 – GF SA & Elim. Of 3 Positions for Reorg. Of HRC** Mr. Smith gave a First Reading of Ordinance Number 115, 2018, "Forty-Second 2018 General Fund Budget Supplemental Appropriation of \$43,869 and Elimination of Three Positions for Reorganization of Human Relations Commission".
- Ord. 116, 2018 – GF SA & Creation of 2 Positions for Reorg. Of HRC** Mr. Smith gave a First Reading of Ordinance Number 116, 2018, "Forty-Third 2018 General Fund Budget Supplemental Appropriation of \$44,006 and Creation of Two Positions for Reorganization of Human Relations Commission".
- Res. 46, 2018 – Appr. Response to 3 Year Plan** Mr. Smith gave a reading of Resolution Number 46, 2018, "Approving the County Council Response to the 2019-2021 Operational & Capital Plan". This was moved by Mr. Leone, seconded by Mrs. Loll and carried in a 7 - 0 vote.
- Reappointment of Amy Danzer to HRC** This was moved by Mr. Leone, seconded by Mr. Anderson and carried in a 7 - 0 vote.
- Reappointment of Dr. Timothy Stoops to HRC Adv. Board** This was moved by Mr. Leone, seconded by Mr. Anderson and carried in a 7 - 0 vote.

Appointment of Mary Jean Taylor, PT, PhD, PCS, to the Erie County Board of Health This was moved by Mr. Leone, seconded by Mr. Anderson and carried in a 7 - 0 vote.

Appointment of Timothy Connelly to the MH/ID Advisory Board. This was moved by Mr. Leone, seconded by Mr. Anderson and carried in a 7 - 0 vote.

Sale of Parcels from Repository for Unsold Property at Index Number: 15-020-026.0-247.00 This was moved by Mr. Leone, seconded by Mr. Horton and carried in a 7 - 0 vote.

Sale of Parcels from Repository for Unsold Property at Index Number: 16-030-021.0-244.00 This was moved by Mr. Leone, seconded by Mr. Horton and carried in a 7 - 0 vote.

ADJOURNMENT Mr. Leone moved to adjourn at 7:52 p.m.